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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)

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GTE Service Corporation)
Request for)

CC Docket No. 99-143

MAY 17 1999

Declaratory Ruling Regarding)
the Use of Section 252(i) to Opt Into)
Provisions Containing)
Non-Cost Based Rates)

To: The Commission

COMMENTS OF CT CUBE, INC.

I. BACKGROUND

CT Cube, Inc. ("CT Cube"), by its attorneys, hereby respectfully submits these comments in response to GTE Service Corporation's ("GTE") petition in the above-captioned proceeding.¹ CT Cube is a small cellular carrier that offers Internet Service Provider (ISP) access as part of its service package. CT Cube is licensed to provide cellular radio service in the San Angelo, Texas Metropolitan Statistical Area (MSA). CT Cube provides Internet access to its wireless subscribers as well as to GTE Southwest, Inc.'s ("GTESW") landline customers. CT Cube has found that routing ISP traffic through its cellular network is the most cost-effective way to bring competitive ISP access to San Angelo, Texas. CT Cube's ISP access is provided in direct competition with ISP access offered by GTESW.

¹In the Matter of GTE Service Corporation Request for Declaratory Ruling Regarding the Use of Section 252(i) To Opt Into Provisions Containing Non-Cost-Based Rates, GTE Petition for Declaratory Ruling, CC Docket No. 99-143, DA 99-862. ("Petition")

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In its petition, GTE mischaracterizes CT Cube as an example of a competitive telecommunications carrier that was attempting to receive “reciprocal compensation for functions CT Cube does not perform.”² GTE’s use of the Public Utility Commission of Texas (“Texas PUC”) decision³ to support its petition is not surprising since the decision is anti-competitive in nature with respect to facilities-based wireless carriers. Accordingly, CT Cube is compelled to further explain the Texas decision to the Federal Communications Commission (“FCC” or “Commission”).

II. COMMENTS

It has been CT Cube’s unfortunate experience that GTESW is not satisfied with just its local exchange carrier monopoly in central Texas — GTESW would also like to dominate the ISP arena. GTE’s trumpeting of its Texas victory demonstrates its strategy to deny competitors compensation at the state level, just as its petition reveals GTE’s strategy to deny competitors compensation at the federal level. The Texas decision affirmed GTESW’s “natural monopoly” status and denied CT Cube its rights as a telecommunications co-carrier. CT Cube is hopeful that, unlike the Texas PUC, the FCC will see through GTE’s rhetoric and deny GTE’s petition.

The Texas PUC’s blatantly discriminatory position is evidenced by the arbitrator’s statement that “CT Cube cannot claim that it is a telecommunications carrier providing [landline-

²*Petition* at 6.

³Public Utility Commission of Texas Arbitrator’s Decision, Petition for Arbitration Pursuant to FTA § 252(b) to Establish an Interconnection Agreement with GTE Southwest, Inc., PUC Docket No. 20028 (February 22, 1999). (“*Texas Arbitrator’s Decision*”)

to-landline] service for ISP-bound traffic for the purposes of reciprocal compensation.”⁴ In essence, the Texas arbitrator’s ruling denies CT Cube its statutory right to be treated as a co-carrier and favors the incumbent GTE SW over its competitor, CT Cube. If the FCC were to grant GTE’s petition, it would be regressing to the level of the Texas PUC’s logic that competitive carriers are just business customers⁵ of the incumbent carrier, rather than co-carriers. GTE’s petition illustrates its belief that competitors such as CT Cube do “not perform”⁶ the same functions as GTE does and should therefore be treated like business customers that only incur costs.

GTE applauds the Texas PUC for recognizing that CT Cube “did not switch ISP-bound traffic”⁷ and for denying CT Cube any compensation for the transport and termination of such traffic. GTE’s ultimate goal in its petition is avoiding any obligation to pay a competitor for the use of the competitor’s network to transport and terminate GTE-originated traffic. GTE does not want to compensate, using its own switching costs, any competitor that may use different technology to transport and terminate traffic. The practical result of such a ruling would allow GTE to claim in every 252(i) proceeding that its competitor has different costs simply because its technology is different. Not only would this slow most proceedings and effectively mandate cost studies for every potential competitor, it would reward GTE for having a more costly and less

⁴Memorandum to Chairman Pat Wood, III, Commissioner Judy Walsh, and Commissioner Brett A. Perlman from Pam Whittington, Gary Torrent, Paul Hudson, and Janice Ervin, Texas PUC Docket No. 20028, April 22, 1999. (“*Arbitrator’s Memo*”)

⁵*Texas Arbitrator’s Decision* at 13.

⁶*Petition* at 6.

⁷*Petition* at 6.

efficient network. While GTESW was successful in convincing the Texas PUC that CT Cube's wireless and ISP access network did not work the same way as the traditional circuit-switched wireline network and thus was able to avoid any compensation, GTE must not be allowed the same leeway at the FCC.

III. CONCLUSION

In GTE's monopolistic mindset, *all* competitors are just like business customers that only incur costs to the GTE network without any compensable costs of their own. CT Cube requests that the Commission reject GTE's petition as an egregious attempt to transfer its anti-competitive Texas arguments into the federal jurisdiction.

Respectfully submitted,

CT CUBE, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via first class, postage pre-paid mail on the following, this 17th day of May 1999:

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